INDEX

	Page
Opinion below	1
Jurisdiction	1
Question presented	2
Statutes and regulations involved	2
Statement	2
Argument	4
Conclusion	10
Appendix	11

CITATIONS

Cases:

Boyce Motor Lines v. *United States*, 342 U.S. 337	5
Currin v. *Wallace*, 306 U.S. 1	9
Dennis v. *United States*, 341 U.S. 494	5
Haldeman Creamery v. *Kendall*, 208 F. 2d 360	10
Jordan v. *DeGeorge*, 341 U.S. 223	5
Stanolind Oil & Gas Co. v. *Freehill*, 205 F. 2d 305	10
Sunshine Coal Co. v. *Adkins*, 310 U.S. 381	9
Taylor v. *Porter*, 156 F. 2d 805, certiorari denied, 329 U.S. 782	6
United States v. *Hood*, 343 U.S. 148	5
United States v. *Petrillo*, 332 U.S. 1	5
United States v. *Spector*, 343 U.S. 169	5
Yakus v. *United States*, 321 U.S. 414	9

Statutes, Executive Order, and Regulations:

Defense Production Act of 1950 (64 Stat. 798, 50 U.S.C. App., Supp. V, 2101, as amended):	
Sec. 402	11
Sec. 408	12
Sec. 703	11
Sec. 704	12
66 Stat. 296, 306 (Amendment to Defense Production Act of 1950)	10
Executive Order 10161 (15 F.R. 6105):	
Sec. 401	14
Sec. 402	14
OPS Ceiling Price Reg. No. 5—Iron and Steel Scrap (16 F.R. 12000)	5, 6
Sec. 1	8, 9, 15
Sec. 1(a)	7

Statutes, Executive Order, and Regulations—Continued

	Page
Sec. 3	8, 9, 16
Sec. 3(a)(2)	7, 8
Sec. 4	19
Sec. 23	7, 8, 9, 19
Sec. 28(n)	9, 26
Sec. 32	32
OPS General Overriding Regulation 44 (18 F.R. 1567)	9
OPS Price Procedural Regulation No. 1 (16 F.R. 4974), Secs. 71, 72	15
OPS Price Procedural Regulation No. 1 (17 F.R. 3787):	
Sec. 91(a)	6, 14
Sec. 92	5-6, 15

In the Supreme Court of the United States

OCTOBER TERM, 1953

No. 631

NORTHWEST STEEL ROLLING MILLS, INC., A WASHINGTON CORPORATION, VERNON A. GENT AND HENRY M. RICHARDSON, PETITIONERS

v.

CHARLES H. KENDALL, ASSISTANT DIRECTOR, OFFICE OF DEFENSE MOBILIZATION

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES EMERGENCY COURT OF APPEALS

BRIEF FOR THE RESPONDENT IN OPPOSITION

OPINION BELOW

The opinion of the Emergency Court of Appeals (R. 45-52) has been reported at 210 F. 2d 283.

JURISDICTION

The judgment of the Emergency Court of Appeals was entered on February 12, 1954 (R. 53). The petition for a writ of certiorari was filed on March 12, 1954. The jurisdiction of this Court is

invoked under Section 408(d) of the Defense Production Act of 1950 (64 Stat. 808, 50 U.S.C. App. 2108(c), and 28 U.S.C. 1254.

QUESTION PRESENTED

1. Whether the Emergency Court of Appeals correctly refused to invalidate a provision in a former Office of Price Stabilization regulation, alleged to be unconstitutionally vague and indefinite, where petitioner could have obtained, under established Office of Price Stabilization procedure, an official interpretation and clarification of the provision in question, but failed to do so.

2. Whether the terms of the challenged regulation are unconstitutionally vague and indefinite.

STATUTES AND REGULATIONS INVOLVED

The pertinent provisions of the Defense Production Act of 1950, as amended (64 Stat. 798, 50 U.S.C. App., Supp. V, 2101, of Executive Order 1061 (16 F.R. 6105), of Office of Price Stabilization Price Procedural Regulation No. 1 [1] (17 F.R. 3787), and of Office of Price Stabilization Ceiling Price Regulation No. 5—Iron and Steel Scrap (16 F.R. 12000) [2] are set forth in the Appendix, *infra*, pp. 11-27.

STATEMENT

Petitioner Northwest Steel Rolling Mills, Inc., a Washington corporation, buys iron and steel scrap and converts it into steel products (R. 37). Its purchases of such scrap were subject to the provisions of Office of Price Stabilization Ceiling Price Regu-

[1] This Regulation is referred to hereinafter as PPR 1.

[2] This Regulation is referred to hereinafter as CPR 5.

lation No. 5 (OPS CPR 5—Iron and Steel Scrap, *infra,* pp. 15-27) (R. 37). The two individual petitioners, Gent and Richardson, are employed as weighmasters by the corporate petitioner (R. 35).

All three petitioners were indicted in the United States District Court for the Western District of Washington, Northern Division, on the charge of unlawfully buying and receiving several loads of Grade 34 unprepared steel scrap—steel scrap defined in Grade 34 of Section 3 of CPR 5 as "Unprepared steel scrap other than material suitable for hydraulic compression"—and paying therefor prices higher than the legal ceilings established by CPR 5 (R. 36, *infra,* p. 19). On December 8, 1952, the district court, upon petitioners' objections to the validity of CPR 5, stayed the criminal action and granted leave to petitioners to reassert those objections in the United States Emergency Court of Appeals (R. 40-41).

Pursuant to such leave, petitioners filed a complaint on January 5, 1953, in the Emergency Court of Appeals, asserting that the term Grade 34 unprepared steel scrap, as defined in CPR 5, was so vague and ambiguous as to be "unconstitutional and void" (R. 35, 37, 39). Under OPS Price Procedural Regulation 1, *infra,* pp. 14-15, petitioners could have requested and obtained an official interpretation from OPS as to the meaning of CPR 5, but the complaint does not allege that such an interpretation had been sought (R. 35-42). An answer, filed on behalf of the Price Stabilization Director, denied the material allegations of the complaint (R. 43).

The Emergency Court of Appeals, after weighing conflicting evidence on the vagueness issue and analyzing the various provisions of CPR 5, specifically found "that the evidence clearly preponderates in favor of the government's contention" and concluded that the "regulation was not void on the ground that it was vague and indefinite" (R. 51). The court, further noting that petitioners could have obtained immunity from criminal prosecution by simply requesting and obtaining an "official interpretation or clarification" under PPR 1 "if they were in doubt as to what constituted unprepared scrap," dismissed the complaint (R. 51, 52, 53).

ARGUMENT

The decision of the Emergency Court of Appeals, sustaining the validity of CPR 5, is clearly correct. Moreover, in view of the termination of the substantive price control provisions of the Defense Production Act of 1950, the question of the validity of CPR 5 has no prospective importance.

1. Two controlling considerations eliminate all doubt as to the correctness of the decision below in refusing to invalidate CPR 5 on the ground of uncertainty and indefiniteness. First, an administrative regulation cannot, we submit, be attacked as unconstitutionally ambiguous where those subject to the regulation have open, under established procedures, the opportunity to be informed by the administrative agency which issued the regulation precisely what is required. Second, even without recourse to any official, administrative interpretation, CPR 5's provisions, far from being ambigu-

ous, plainly define "Grade 34 unprepared steel scrap" in a manner sufficiently definite and intelligible to those purchasing that material.

a. The essential purpose of the "void for vagueness" doctrine is to make certain that individuals are warned, in advance, of the type of act made criminal. *Jordan* v. *DeGeorge*, 341 U.S. 223, 230. Consequently a penal statute which does not give sufficiently definite notice to one who would avoid its penalties is void as an unconstitutional deprivation of due process. *Dennis* v. *United States*, 341 U.S. 494, 515; *United States* v. *Petrillo*, 332 U.S. 1, 6; *Boyce Motor Lines* v. *United States*, 342 U.S. 337, 340; *United States* v. *Hood*, 343 U.S. 148, 151; *United States* v. *Spector*, 343 U.S. 169, 172. Where the legislature has failed to make itself understood and there are no official agencies whose function it is to issue authoritative interpretations of the statute in advance of the commission of an act which may subject the doer to legal penalties, the legislature's unarticulated command is not to be enforced. Those to whom such a statute applies may not know and have no means of ascertaining what they are required to do or abstain from doing.

But the situation is entirely different where, as here, the administrative agency issues interpretations and clarifications upon request to any person having doubt as to the meaning of any provision of the regulation. Thus, petitioners in the instant case at all times had open to them the means to be informed by the agency which issued the regulation precisely what was required of them. Section 92 of PPR 1 (17 F.R. 3787), *infra*, p. 15, plainly

authorizes "any person desiring an official interpretation of a ceiling price regulation" to "request it in writing" from the "District Counsel" of the Office of Price Stabilization. And Section 91(a) of that regulation, *infra*, pp. 14-15, provides that action taken by such a person "in reliance upon, and in conformity with, an official interpretation * * * will constitute action in good faith pursuant to the provisions of the ceiling price regulation." Accordingly, any doubts petitioners had as to the meaning of CPR 5 could have been resolved by applying for an official interpretation. Had petitioners acted in reliance upon such an interpretation, they would themselves (1) have eliminated any ambiguity they now complain of, (2) have been warned, in advance, of the exact type of conduct made criminal, and (3) at the same time "have been immune to prosecution" (R. 52). As stated by the court below, "If [petitioners] had any doubt as to what constituted unprepared scrap, they should, in ordinary prudence, have asked for clarification of the regulation, for their own protection." (R. 52). Their failure to avail themselves of this opportunity to clarify a regulatory provision that may have appeared ambiguous to them, destroys, we submit, their right to challenge the validity of the regulation on the ground that it is ambiguous. Cf. *Taylor* v. *Porter,* 156 F. 2d 805, 809 (E.C.A.), certiorari denied, 329 U.S. 782.

b. Petitioners' attack on the validity of CPR 5 must also fall for the further reason that the regulatory scheme makes perfectly plain what was meant by "Grade 34 unprepared steel scrap."

Section 1(a) of the CPR 5, which explains "what this regulation does and prohibit[s]," states that "This regulation establishes ceiling prices" for "all sales and deliveries * * * of prepared and unprepared steel scrap." *Infra,* p. 15. Section 3 (a)(1) then prescribes the basing point price for "Grade 1" steel scrap (No. 1 bundles). *Infra,* pp. 16-17. Section 3(a)(2) also prescribes the prices for each of the remaining 33 grades of steel scrap by setting a "differential * * * above or below the price" of Grade 1 for each of the 33 grades. *Infra,* pp. 17-19. These 33 grades are sub-divided by Section 3(a)(2) into three groups: Grades 2 through 10 are the "Open hearth and blast furnace grades"; Grades 11 through 31 are the "Electric furnace and foundry grades; and Grades 32 through 34 are denominated the "Unprepared grades." *Infra,* pp. 17-19.

Section 23 of CPR 5 contains detailed specifications for each of the various types listed in Section 3(a) as Grades 1 through 31. *Infra,* pp. 19-26. These Grades 1 through 31 were obviously the "prepared grades," and all scrap which did not conform to the detailed specifications established for any of these 31 grades was necessarily "unprepared". Since Grades 32 through 34 were described in CPR 5 as "unprepared grades," and since, as already noted, the regulation applied only to prepared and unprepared scrap, then the other Grades, 1 through 31, necessarily were "prepared grades." As observed by the court below, "the inference is almost inescapable [from these various provisions of

CPR 5] that all other grades, entitled 'Open Hearth and Blast Furnace Grades' and 'Electric Furnace and Foundry Grades' are considered 'Prepared Grades', in contrast to those denominated, 'Unprepared Grades' " (R. 48).

Sections 1, 3 and 23 of CPR 5, when considered together, thus eliminate any doubt as to the distinction between prepared and unprepared scrap. The only remaining problem in CPR 5 was to distinquish between the three grades of unprepared steel scrap. This CPR 5 accomplished in Section 3(a)(2)'s definitions of Grades 32 through Grade 34. Grade 32 was defined as "unprepared steel scrap which when compressed constitutes No. 1 bundles"; Grade 33 was "unprepared steel scrap which when compressed constitutes No. 2 bundles"; and Grade 34 was "unprepared steel scrap other than material suitable for hydraulic compression." *Infra,* p. 19. From these definitions in Sections 1, 3 and 23, it is plain that if a quantity of steel scrap did not conform to the specifications for any of the 31 grades set forth in Section 23, it was unprepared steel scrap, and if it was not suitable for hydraulic compression, it was necessarily Grade 34 unprepared scrap.

Against this simple and, we believe, obvious meaning of the term "Grade 34 unprepared steel scrap," as used in CPR 5, petitioner suggests that "If this is a proper construction of CPR 5, it is strange that the framers thereof did not so state" (Pet. 20). The short answer is that, of the many ways in which it might have been said, the method

actually employed by CPR 5 gave, as we have shown, a plain and unambiguous meaning to Grade 34 unprepared steel scrap. And it is, of course, irrelevant that the same result could have been achieved by different language.

Petitioners also argue that Section 28(n) of CPR 5 is unconstitutionally vague because it states that the term "unprepared scrap" shall have "its customary trade meaning." (Pet. 20). But "Grade 34 unprepared steel scrap" was, as we have pointed out, adequately and plainly defined by Sections 1, 3 and 23 of CPR 5, and this makes it unnecessary to examine Section 28(n)'s reference to "customary trade meaning." But even if consideration is given to Section 28(n), it is clear, for the reasons set forth in detail in the opinion below, that there was nothing ambiguous in the term "customary trade meaning," under which, as under Sections 1, 3 and 23 of CPR 5, scrap not conforming to any of the specifications in Section 23 was considered unprepared scrap (R. 13, 14, 51).[3]

2. In any event, the issues raised by the petition have no prospective importance. More than a year ago, on March 17, 1953, all price controls were ter-

[3] Equally without merit is petitioners' contention that the reference in Section 28(n) to "customary trade meaning" constituted an unlawful delegation of power to private individuals (Pet. 22-26). There is no doubt that price ceilings were fixed by the Office of Price Stabilization, not by private individuals, and that the standards laid down by Congress to guide administrative exercise of price-fixing authority were sufficiently definite and precise. See *Yakus* v. *United States*, 321 U.S. 414; *Currin* v. *Wallace*, 306 U.S. 1, 15-16; *Sunshine Coal Co.* v. *Adkins*, 310 U.S. 381, 397, 399.

minated. OPS General Overriding Regulation 44 (18 F.R. 1567). And all substantive price control authority under the Defense Production Act of 1950 expired on April 30, 1953. 66 Stat. 296, 306. CPR 5, like all the ceiling price regulations, does not have any prospective force. It is only the pendency of the criminal action against petitioners in the district court which saved the issue of the validity of CPR 5 from becoming moot in the court below. *Haldeman Creamery* v. *Kendall,* 208 F. 2d 360, 363-364 (E.C.A.); see *Stanolind Oil & Gas Co.* v. *Freehill,* 205 F. 2d 305 (E.C.A.). But since that issue is confined to this single case and cannot recur, review by this Court is not warranted.

CONCLUSION

The decision of the Emergency Court of Appeals is correct. The petition raises no issue of prospective or general importance. We respectfully submit that the petition for a writ of certiorari should be denied.

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APRIL, 1954.

APPENDIX

A. *Pertinent provisions of the Defense Production Act of 1950:*

Section 402 (64 Stat. 803, 50 U.S.C. App., Supp. V, 2102), authorizing the imposition of price ceilings, provides in pertinent part:

> SEC. 402. (a) In order to carry out the objectives of this title, the President may encourage and promote voluntary action by business, agriculture, labor and consumers. * * *.
>
> (b) (1) To the extent that the objectives of this title cannot be attained by action under subsection (a), the President may issue regulations and orders establishing a ceiling or ceilings on the price, rental, commission, margin, rate, fee, charge, or allowance paid or received on the sale or delivery, or the purchase or receipt, by or to any person, of any material or service, and at the same time shall issue regulations and orders stabilizing wages, salaries, and other compensation in accordance with the provisions of this subsection.

Sections 703 and 704 (64 Stat. 816, 50 U.S.C. App., Supp. V, 2153, 2154), containing the delegation and rule-making authority under the Act, provide in pertinent part:

> SEC. 703. (a) Except as otherwise specifically provided, the President may delegate any power or authority conferred upon him by this Act to any officer or agency of the Government, including any new agency or agencies (and the President is hereby authorized to create such new agencies, other than corporate

agencies, as he deems necessary), and he may authorize such redelegations by that officer or agency as the President may deem appropriate. * * *.

* * * * *

SEC. 704. The President may make such rules, regulations, and orders as he deems necessary or appropriate to carry out the provisions of this Act. Any regulation or order under this Act may be established in such form and manner, may contain such classifications and differentiations, and may provide for such adjustments and reasonable exceptions as in the judgment of the President are necessary or proper to effectuate the purposes of this Act, or to prevent circumvention or evasion, or to facilitate enforcement of this Act, or any rule, regulation, or order issued under this Act.

Section 408 (64 Stat. 808, 50 U.S.C. App., Supp. V, 2108, as amended, 66 Stat. 302), which authorizes the stay of criminal proceedings in the district court pending a determination by the Emergency Court of Appeals of the validity of Office of Price Stabilization regulations provides in pertinent part:

SEC. 408. (d) (1) Within thirty days after arraignment, or such additional time as the court may allow for good cause shown, in any criminal proceeding, and within five days after judgment in any civil or criminal proceeding, brought pursuant to section 409 or 706 of this Act, section 205 or 206 of the Housing and Rent Act of 1947, as amended, or section 371 of title 18, United States Code, involving alleged

violation of any provision of any such regulation or order, the defendant may apply to the court in which the proceeding is pending for leave to file in the Emergency Court of Appeals a complaint against the President setting forth objections to the validity of any provision which the defendant is alleged to have violated or conspired to violate. The court in which the proceeding is pending shall grant such leave with respect to any objection which it finds is made in good faith and with respect to which it finds there is reasonable and substantial excuse for the defendant's failure to present such objection in a protest filed in accordance with section 407 of this title. Upon the filing of a complaint pursuant to and within thirty days from the granting of such leave, the Emergency Court of Appeals shall have jurisdiction to enjoin or set aside in whole or in part the provision of the regulation or order complained of or to dismiss the complaint. The court may authorize the introduction of evidence, either to the President or directly to the court, in accordance with subsection (a) of this section. The provisions of subsections (b) and (c) of this section shall be applicable with respect to any proceeding instituted in accordance with this subsection.

B. *Executive Order 10161 of September 9, 1950* (15 F. R. 6105, 6106), delegating price control functions of the President under the Defense Production Act of 1950 to the Economic Stabilization Agency and to the Director of Price Stabilization, provides in pertinent part:

SEC. 401. (a) There is hereby created a new and independent agency to be known as the Economic Stabilization Agency, hereafter in this Part referred to as the Agency. There shall be at the head of the Agency an Economic Stabilization Administrator, hereafter in this Part referred to as the Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) The Administrator shall seek to preserve and maintain the stabilization of the economy. To this end he shall:

* * * * *

(4) Establish price ceilings and stabilize wages and salaries where necessary.

(c) The functions conferred upon the President by Title IV of the Defense Production Act of 1950 are hereby delegated to the Administrator.

SEC. 402. There shall be in the Agency a Director of Price Stabilization, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions with respect to price stabilization as may be determined by the Administrator.

C. *Office of Price Stabilization Price Procedural Regulation No. 1, Revision 2* (17 F.R. 3787) provides in pertinent part:

SEC. 91. *Who may render official interpretations, and the effect thereof.* (a) Action taken in reliance upon, and in conformity with, an

official interpretation of a provision of any ceiling price regulation or order * * * will constitute action in good faith pursuant to the provisions of the ceiling price regulation or order to which such official interpretation relates.

SEC. 92. *Requests for interpretations; form and contents.* Any person desiring an official interpretation of a ceiling price regulation or order should request it in writing from the District Counsel of his local District Office * * *.[4]

D. *Office of Price Stabilization Ceiling Price Regulation 5—Iron and Steel Scrap* (16 F.R. 12000) provides in pertinent part:

SECTION 1. *What this regulation does and prohibitions.* (a) This regulation establishes ceiling prices and fees for:

(1) All sales and deliveries, including export sales and sales for export, by any person of prepared and unprepared steel scrap;

* * * * *

(b) *Prohibitions against dealing in iron and steel scrap at prices above ceiling.* On and after October 30, 1951, regardless of any contract or other obligations:

(1) No person shall sell, deliver, buy, receive, or prepare iron or steel scrap or agree, offer, solicit, or attempt to do any of the fore-

[4] These regulations, dated April 28, 1952, took the place of identical provisions in Sections 71 and 72 of Price Procedural Regulation No. 1 of May 26, 1951 (16 F.R. 4974).

going at prices above those established in this regulation;

* * * * *

SEC. 3. *Basing point prices for steel scrap of dealer and industrial origin*—(a) *Basing point prices from which maximum shipping prices are computed*—(1) *Basing point prices for the base grade, No. 1 bundles, Grade 1:*

Basing point:	*Price per gross ton*
Alabama City, Ala.	$39.00
Ashland, Ky.	42.00
Atlanta, Ga.	39.00
Bethlehem, Pa.	42.00
Birmingham, Ala.	39.00
Brackenridge, Pa.	44.00
Buffalo, N. Y.	43.00
Butler, Pa.	44.00
Canton, Ohio	44.00
Chicago, Ill.	42.50
Cincinnati, Ohio	43.00
Claymont, Del.	42.50
Cleveland, Ohio	43.00
Coatesville, Pa.	42.50
Conshohocken, Pa.	42.50
Detroit, Mich.	41.15
Duluth, Minn.	40.00
Harrisburg, Pa.	42.50
Houston, Tex.	37.00
Johnstown, Pa.	44.00
Kansas City, Mo.	39.50
Kokomo, Ind.	42.00
Los Angeles, Calif.	35.00

Basing point:	*Price per gross ton*
Middletown, Ohio	43.00
Midland, Pa.	44.00
Minnequa, Colo.	38.00
Monessen, Pa.	44.00
Phoenixville, Pa.	42.50
Pittsburg, Calif.	35.00
Pittsburgh, Pa.	44.00
Portland, Oreg.	35.00
Portsmouth, Ohio	42.00
St. Louis, Mo.	41.00
San Francisco, Calif.	35.00
Seattle, Wash.	35.00
Sharon, Pa.	44.00
Sparrows Point, Md.	42.00
Steubenville, Ohio	44.00
Warren, Ohio	44.00
Weirton, W. Va.	44.00
Youngstown, Ohio	44.00

(2) *Differentials per gross ton above or below the price of Grade 1 (No. 1 bundles) for other grades of steel scrap.*

OPEN HEARTH AND BLAST FURNACE GRADES

Grades	*Differentials*
2. No. 1 busheling	Base
3. No. 1 heavy melting steel	—$1.00
4. No. 2 heavy melting steel	—1.00
5. No. 2 bundles	—1.00
6. Machine shop turnings	—10.00
7. Mixed borings and short turnings	—6.00

Grades	*Differentials*
8. Shoveling turnings	—6.00
9. No. 2 busheling	—4.00
10. Cast iron borings	—6.00
ELECTRIC FURNACE AND FOUNDRY GRADES	
11. Billet, bloom and forge crop.	+7.50
12. Bar crops and plate scrap..	+5.00
13. Cast steel	+5.00
14. Punchings and plate scrap ..	+2.50
15. Electric furnace bundles ...	+2.00
16. Cut structural and plate scrap 3′ and under	+3.00
17. Cut structural and plate scrap 2′ and under	+5.00
18. Cut structural and plate scrap 1′ and under	+6.00
19. Briqueted cast iron borings .	Base
20. Foundry steel, 2′ and under .	Base
21. Foundry steel, 1′ and under .	+2.00
22. Springs and crankshafts	+1.00
23. Alloy free turnings	—3.00
24. Heavy turnings	—1.00
25. Briqueted turnings	Base
26. No. 1 chemical borings	—3.00
27. No. 2 chemical borings	—4.00
28. Wrought iron	+10.00
29. Shafting	+10.00
30. Hard steel cut 2′ and under..	+5.00
31. Old tin and terne plate bundles	—10.00

UNPREPARED GRADES

Grades	*Differentials*
32. Unprepared steel scrap which when compressed constitutes No. 1 bundles	—6.00
33. Unprepared steel scrap which when compressed constitutes No. 2 bundles	—9.00
34. Unprepared steel scrap other than material suitable for hydraulic compression ...	—8.00

* * * * *

SEC. 4. *Ceiling shipping point prices for steel scrap of dealer and industrial origin.* (a) For shipping points located within a basing point named in section 3 hereof, the ceiling shipping point price for any grade of steel scrap shall be the price established at such basing point, minus the applicable switching charge deduction set forth in section 5 hereof.

(b) For shipping points located outside the basing points named in section 3 hereof, the ceiling shipping point price of any grade of iron or steel scrap shall be the price established for the scrap at the most favorable basing point, minus the lowest established charge for transporting scrap from the shipping point to such basing point by rail or water carrier, or combination thereof. (The most favorable basing point is the basing point named in section 3 hereof which will yield the highest shipping point price.)

* * * * *

SEC. 23. *Steel grades of dealer and industrial origin.* All grades must be free of dirt, non-ferrous metals or foreign material of any kind and free of excessive rust and corrosion.

(a) *Basic open hearth and blast furnace grades.* (The numbering of the paragraphs does not necessarily correspond to the grade numbers established in section 3 of this regulation).

(1) *No. 1 heavy melting steel.* Clean wrought iron or steel scrap ¼ inch and over in thickness, not over 18 inches in width and not over 5 feet in length. Individual pieces must be free from attachments, and so cut as to lie flat in the charging box. May include heavy forgings, forge butts, billet, bloom, slab or bar crops not conforming to chemical analysis required for electric furnace or acid open hearth use. May include new pipe ends. May not include auto body and fender stock.

(2) *No. 2 heavy melting steel.* Wrought iron or steel scrap, black or galvanized, ⅛ inch and over in thickness, not over 18 inches in width and not over 5 feet in length. (Uncut bumpers and front axles of passenger automobiles, and uncut rear ends of passenger automobiles free of wheels and brake assemblies and drained of oil, may be included even though over 5 feet in length.) Individual pieces must be free from attachments and so cut as to lie flat in the charging box. May include pipe; heavy oil field or similar cable not less than 1 inch in diameter and cut to lengths of 3 feet or less; and car sides and light plate cut 15 inches by 15 inches or under.

May not include auto body and fender stock.

(3) *No. 1 busheling.* Clean new wrought iron or steel scrap 1/16 inch and over in thickness, not exceeding 12 inches in any dimension, including new factory busheling 20 gauge or heavier (for example, sheet clippings, stampings, etc.) and steel cartridge cases 40 mm. or less. May not contain burnt material or auto body and fender stock. Must be free of metal coated, limed or porcelain enameled stock.

(4) *No. 1 bundles.* New black steel sheet scrap, clippings, or skeleton scrap, hydraulically compressed or hand bundled to charging box size and weighing not less than 75 pounds per cubic foot. (Hand bundles must also be tightly secured and stand handling with a magnet.) Must be free of paint or protective coating of any kind. May include Stanley balls, or mandrel wound bundles or skeleton reels, tightly secured. May include chemically detinned material. No tin can will be deemed to be detinned unless it has undergone the chemical process for the removal and recovery of tin. May not include electrical sheets, or any material over 0.5% of silicon.

(5) *No. 2 bundles.* Body and fender scrap, or old black and/or galvanized scrap, hydraulically compressed to charging box size and weighing not less than 75 pounds per cubic foot. May include galvanized, but not vitreous enameled stock, tin plate, terne plate or other metal coated material. Painted or lacquered material shall not be considered as coated material. May include hydraulically compressed black or galvanized fence wire, light coil spring

and any bundles which are excluded from No. 1 bundles by reason of their containing painted, lacquered, lithographed or galvanized material.

(6) *Machine shop turnings.* Clean steel or wrought iron turnings, free of cast or malleable iron borings, nonferrous metals in a free state, scale or excessive oil. May not contain badly rusted or corroded stock.

(7) *Mixed borings and turnings.* Shoveling turnings mixed with cast or malleable iron borings and drillings, free of scale or excessive oil or nonferrous metals in a free state. May not contain badly rusted or corroded stock.

(8) *Shoveling turnings.* Clean short steel or wrought iron turnings, drillings or screw cuttings. May include any such material whether resulting from crushing, raking or other processes. Must be free of springy, bushy, tangled or matted material, lumps, nonferrous metals in a free state, scale, grindings, or excessive oil.

(9) *No. 2 busheling.* Cut hoops, netting, cut unbaled fence wire, light sheets, rusted car sides, cotton ties, and galvanized light material. No dimension over 12 inches. May be black or galvanized. May include oil field or similar cable cut to lengths of 2 feet or less and machine gun clips. No hard steel, porcelain enameled, or metal coated material may be included.

(10) *Cast iron borings.* Clean cast iron or malleable iron borings and drillings, free of steel turnings, scale, lumps and excessive oil.

(b) *Electric furnace and foundry grades.*

(11) *Billet, bloom and forge crops.* Billet,

bloom, axle, slab, heavy plate and heavy forge crops, not over 0.05% phosphorus or sulphur and not over 0.5% silicon, free from alloys. Must not be less than 2 inches in thickness, not over 18 inches in width and not over 36 inches in length. Must be new material delivered to the consumer directly from the industrial producer.

(12) *Bar crops and plate scrap.* Bar crops, plate scrap, forgings, bits, jars and tool joints, containing not over 0.05% phosphorus or sulphur, not over 0.5% silicon, free from alloys. Must not be less than ½ inch in thickness, not over 18 inches in width and not over 36 inches in length.

(13) *Cast steel.* Steel castings not over 48 inches long, 18 inches wide and ¼ inch in thickness, containing not over 0.05% phosphorus or sulphur, free from alloys and attachments. May include heads, gates and risers.

(14) *Punchings and plate scrap.* Punchings or stampings, plate scrap and bar crops containing not over 0.05% phosphorus or sulphur and not over 0.5% silicon, free from alloys. All material must be cut 12 inches and under and with the exception of punchings or stampings must be at least ⅛ inch in thickness. Punchings and stampings may be of any gauge but must not be more than 6 inches in diameter.

(15) *Electric furnace bundles.* New black steel sheet scrap hydraulically compressed into bundles 14 x 14 x 20 inches or smaller.

(16) *Cut structural and plate scrap, 3 feet and under.* Clean open hearth steel plates,

structural shapes, crop ends, shearings, or broken steel tires. Must be not less than ¼ inch in thickness, nor over 3 feet in length and 18 inches in width. Must not contain over 0.05% phosphorus or sulphur.

(17) *Cut structural and plate scrap, 2 feet and under.* Clean open hearth steel plates, structural shapes, crop ends, shearings, or broken steel tires. Must be not less than ¼ inch in thickness, not over 2 feet in length and 18 inches in width. Must not contain over 0.05% phosphorus or sulphur.

(18) *Cut structural and plate scrap, 1 foot and under.* Clean open hearth steel plates, structural shapes, crop ends, shearings, or broken steel tires. Must be not less than ¼ inch in thickness or over 1 foot in length or width. Must not contain over 0.05% of phosphorus or sulphur.

(19) *Briquetted cast iron borings.* Cast iron borings, Grade 12, compressed into a cohesive solid, reasonably free from oil, each briquette to weight not more than 20 pounds and to have a density of not less than 60 percent.

(20) *Foundry steel, 2 feet and under.* Steel scrap ⅛ inch and over in thickness, not over 2 feet in length or 18 inches in width. Individual pieces must be free from attachments. May not include nonferrous metals, metal coated material, cast or malleable iron, body and fender stock, cable, enameled or galvanized material.

(21) *Foundry steel, 1 foot and under.* Steel scrap ⅛ inch and over in thickness, not over 1 foot in length or width. Individual pieces must be free from attachments. May not in-

clude nonferrous metals, metal coated material, cast or malleable iron, body and fender stock, cable, enameled or galvanized material.

(22) *Springs and crankshafts.* Clean automotive springs and crankshafts, either new or used.

(23) *Alloy free turnings.* New, short, clean steel turnings free from lumps, tangled or matted material, cast iron borings, or excessive oil, containing not more than 0.05% phosphorus or sulphur and free of alloys. Must be delivered to the consumer directly from the industrial producer.

(24) *Heavy turnings.* Short, heavy steel turnings, containing not over 0.05% phosphorus or sulphur and free of alloys. May include rail chips. May not include machine shop or other light turnings and must weigh not less than 75 pounds per cubic foot in the original state of production.

(c) *Special grades.*

(25) *Briquetted turnings.* Steel turnings compressed into a cohesive solid, reasonably free from oil, each briquette to weigh not more than 20 pounds and to have a density of not less than 60 percent.

(26) *No. 1 chemical borings.* New clean cast or malleable iron borings and drillings containing not more than 1% oil, free from steel turnings, or chips, lumps, scale, corroded or rusty material.

(27) *No. 2 chemical borings.* New clean cast or malleable iron borings and drillings, containing not more than 1.50% oil, free from steel

turnings, or chips, lumps, scale, corroded or rusty material.

(28) *Wrought iron.* Clean wrought iron scrap, free of steel and with rivets and attachments removed. May include structural shapes, plates, bars, pipes, staybolts or any other material known to have been manufactured from wrought iron.

(29) *Shafting.* Random length shafting suitable without further preparation for rerolling, or forging. Must be reasonably straight and free of attachments.

(30) *Hard steel cut 2 feet and under.* Automotive steel consisting of rear ends, crankshafts, driveshafts, front axles, springs and gears prepared 2 feet and under. May not include miscellaneous small shoveling steel or any pieces too bulky for gray iron foundry use.

(31) *Old tin and terne plate bundles.* Old tin plated and terne plated steel scrap hydraulically or mechanically compressed to charging box size.

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SEC. 28. *Definitions.* * * *

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(n) "Unprepared scrap." The term shall have its customary trade meaning and shall not include such demolition projects as automobiles, bridges, rail abandonments, vessels, and locomotives, cranes, freight cars and similar equipment on its own wheels. Prior to demolition such projects are not iron and steel scrap and must be priced under the applicable pro-

visions of the General Ceiling Price Regulation.

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SEC. 32. *Enforcement.* Persons violating any provision of this regulation are subject to the criminal penalties, civil enforcement actions, and suits for treble damages provided by the Defense Production Act of 1950.

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